IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 1577 of 2005

Between:

G. Somsekhar Rao, S/o. G.B.Rao,
R/o. H.No.3-6-564/1, Flower Shop Himayatnagar, Hyd.

... PETITIONER

AND

1. The Commissiner, Municipal Corporation of Hyderabad, Hyderabad.
2. The Special Deputy Collector (L.A.), Municipal Corporation of Hyderabad, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction more particularly one in the nature of writ of Mandamus directing the respondents not to evict the petitioner from the petition schedule property H.No.3-6-564/1, Flower Shop Himayatnagar, Hyderabd, admeasuring 35.5 S1. Meters for a period of 6 months and to pay compensation for loss of business, good will to acquire alternate place of business as the action affects the right of the petitioner under Article 300-A and Article 19(1) of Constitution of India.

Counsel for the Petitioner: MR.P.HARINATH GUPTA

Counsel for the Respondent 1: MR.G.RAMA RAO, S.C.

Counsel for the Respondent 2: G.P. for L.A.

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

As can be seen from the material on record, the petitioner is the tenant in the premises bearing H.No.3-6-564/1, situated in Himayatnagar, Hyderabad, where he has been running flower business. It is not in dispute that the said land was proposed to be acquired by the first respondent Corporation for the purpose of road widening. The draft notification under Section 4(1) of Land Acquisition Act was published on 06-08-2004 and notice under Section 5-A of Land Acquisition Act was also issued to the interested parties. The petitioner states that in pursuance of the same, he has already submitted his objections. It is also not in dispute that having considered the said objections along with the objections received from similarly situated persons, the Special Deputy Collector, Land Acquisition, Municipal Corporation of Hyderabad, vide proceedings dated 27-12-2004 passed the following order:

> All the interested parties were given opportunity of personal hearing and objections were heard in person on the day fixed. All the objections received are examined with reference to records. The record reveal that (228) properties are affected under road widening on the road leading from Liberty Junction to Narayanaguda Junction. Among them (116) properties were taken over by MCH under H.M.C. Act and for remaining (102) properties on receipt of requisition from MCH action under the provisions of LA Act has been initiated and (32) properties were already notified U/s. 4(1) of LA Act. The remaining properties are under process of LA Act. Therefore the

> objections raised are not sustainable. As regard, to payment of compensation to the landowners and tenant are concerned, the same will be enquired at the time of further enquiry after publication of Draft Declaration U/s. 6 of LA Act.

In the light of the said order, I do not find any reason to hold that the action of the respondents, in taking steps to evict the petitioner from the premises in question, is either arbitrary or illegal. However, the learned counsel for the petitioner states that the petitioner made a representation before the first respondent Corporation on 29-12-2004 requesting to allow him to continue in premises for a further period of six months.

In the circumstances, without expressing any opinion with regard to the entitlement of the petitioner to continue in the said premises, the writ petition is disposed of with a direction to the respondents to consider his representation and pass appropriate orders, in accordance with law, within a period of two weeks, from the date of receipt of a copy of this order. No order as to costs.

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G. ROHINI, J

Dated: 10-02-2005

LSK

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER.

To

1. The Commissiner, Municipal Corporation of Hyderabad, Hyderabad.
2. The Special Deputy Collector (L.A.), Municipal Corporation of Hyderabad, Hyderabad.

3. Two C.D. copies.